

ORDINANCE AUTHORIZING THE CITY OF  
FORT WAYNE TO ISSUE ITS "ECONOMIC DEVELOPMENT  
FIRST MORTGAGE REVENUE BONDS, SERIES 1981 A  
(MULLINIX PACKAGES, INC. PROJECT)" AND APPROVING  
OTHER ACTIONS IN RESPECT THERETO

WHEREAS, the City of Fort Wayne has previously issued  
\$800,000 of economic development revenue bonds in 1976 (the  
"Series 1976 Bonds"); and

WHEREAS, Mullinix Packages, Inc. has requested the City of  
Fort Wayne to issue additional bonds on a parity with the Series  
1976 Bonds; and

WHEREAS, the Fort Wayne Economic Development Commission has  
rendered its Project Report for the Mullinix Packages, Inc.  
Project regarding the supplemental financing of proposed addi-  
tional economic development facilities for Mullinix Packages,  
Inc. and the Fort Wayne City Plan Commission has commented  
favorably thereon; and

WHEREAS, the Fort Wayne Economic Development Commission  
conducted a public hearing on September 3, 1981, and also  
adopted a resolution on September 3, 1981, which Resolution  
has been transmitted hereto, finding that the financing of  
certain economic development facilities of Mullinix Packages,  
Inc. complies with the purposes and provisions of I.C. 36-7-12  
(formerly I.C. 18-6-4.5) and that such financing will be of  
benefit to the health and welfare of the City of Fort Wayne and  
its citizens; and

WHEREAS, the Fort Wayne Economic Development Commission has  
heretofore approved and recommended the adoption of this form  
of Ordinance by this Common Council and has approved the forms  
of and has transmitted for approval by the Common Council the  
First Supplemental Lease Agreement and First Supplemental  
Mortgage and Indenture of Trust; now therefore,

1 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT  
2 WAYNE, INDIANA THAT:

3 SECTION 1. It is hereby found that the financing of the  
4 economic development facilities referred to in the First Sup-  
5 plemental Lease Agreement approved by the Fort Wayne Economic  
6 Development Commission and presented to this Common Council,  
7 the issuance and sale of revenue bonds, the acquisition and  
8 construction of such facilities and the equipping thereof, the  
9 payment of the revenue bonds by the lease rental payments of  
10 Mullinix Packages, Inc. under the First Supplemental Lease  
11 Agreement, and the securing of said bonds by the mortgaging of  
12 such facilities to the Trustee under the First Supplemental  
13 Mortgage and Indenture of Trust complies with the purposes and  
14 provisions of I.C. 36-7-12 (formerly I.C. 18-6-4.5) and will be  
15 of benefit to the health and welfare of the City of Fort Wayne  
16 and its citizens.

17 SECTION 2. The substantially final forms of the First Sup-  
18 plemental Lease Agreement and First Supplemental Mortgage and  
19 Indenture of Trust approved by the Fort Wayne Economic Develop-  
20 ment Commission are hereby approved and all such documents  
21 (herein collectively referred to as the "Financing Agreement"  
22 referred to in I.C. 36-7-12 (formerly I.C. 18-6-4.5), shall be  
23 incorporated herein by reference and shall be inserted in the  
24 minutes of the Common Council and kept on file by the Clerk.

25 SECTION 3. The City of Fort Wayne shall issue its Economic  
26 Development First Mortgage Revenue Bonds, Series 1981 A  
27 (Mullinix Packages, Inc. Project), in the total principal amount  
28 of Five Hundred Thousand Dollars (\$500,000) for the purpose of  
29 procuring funds to pay the additional costs of acquisition,  
30 construction and equipping of the additional economic develop-  
31 ment facilities as more particularly set out in the First  
32 Supplemental Lease Agreement and First Supplemental Mortgage

and Indenture of Trust incorporated herein by reference, which bonds will be payable as to principal, premium, if any, and interest from the lease rental payments made by Mullinix Packages, Inc. under the First Supplemental Lease Agreement or as otherwise provided in the above described First Supplemental Mortgage and Indenture of Trust. The Bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the City of Fort Wayne.

SECTION 4. The Mayor and Clerk are authorized and directed to sell such bonds to the purchasers thereof at a rate of interest on the bonds not to exceed 70% of the prime commercial lending rate of the Lincoln National Bank and Trust Company of Fort Wayne (except in the event interest on the Series 1981 A Bonds become taxable) and at a price not less than 100% of the principal amount thereof. It is understood that the Bonds and the Series 1976 Bonds are on a parity one with another.

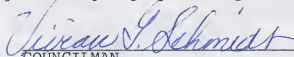
SECTION 5. The Mayor and Clerk are authorized and directed to execute, attest and affix the City seal to the documents constituting the Financing Agreement approved herein on behalf of the City and any other document which may be necessary or desirable to consummate the transaction, including the bonds authorized herein. The Mayor and Clerk are hereby expressly authorized to approve any modifications or additions to the documents constituting the Financing Agreement which take place after the date of this Ordinance with the review and advice of the City Attorney; it being the express understanding of this Common Council that said Financing Agreement is in substantially final form as of the date of this Ordinance. The approval of said modifications or additions shall be conclusively evidenced by the execution and attestation thereof and the affixing of the seal thereto; provided, however, that no such modification or addition shall change the maximum principal

1 amount of, interest rate on or term of the bonds as approved  
2 by the Common Council by this Ordinance without further con-  
3 sideration by the Common Council. The signatures of the Mayor  
4 and Clerk on the bonds may be facsimile signatures. The Clerk  
5 is authorized to arrange for delivery of such Bonds to the  
6 Trustee named in the First Supplemental Mortgage and Indenture  
7 of Trust, payment for which will be made to the Trustee named  
8 in the First Supplemental Mortgage and Indenture of Trust and  
9 delivered by the Trustee to the purchasers thereof.


10 SECTION 6. It is understood by and agreed to by the Common  
11 Council that Mullinix Packages, Inc. will be financing addi-  
12 tional facilities through the issuance of a third series of  
13 bonds.

14 SECTION 7. The provisions of this Ordinance and the First  
15 Supplemental Mortgage and Indenture of Trust securing the bonds  
16 shall constitute a contract binding between the City of Fort  
17 Wayne and the holder of the Economic Development First Mortgage  
18 Revenue Bonds, Series 1981 A (Mullinix Packages, Inc. Project),  
19 and after the issuance of said bonds, this Ordinance shall not  
20 be repealed or amended in any respect which would adversely  
21 affect the rights of such holders so long as any of said bonds  
22 or the interest thereon remains unpaid.

23 SECTION 8. This Ordinance shall be in full force and  
24 effect from and after its passage and signing by the Mayor.

25   
26 COUNCILMAN

27 APPROVED AS TO FORM AND  
28 LEGALITY.

29   
30 John J. Wernet, Attorney for the  
Economic Development Commission  
Dated this 3rd day of September, 1981.

Read the first time in full and on motion by J. Debnick, seconded by Allen, and duly adopted, read the second time by title and referred to the Committee Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on 9-8-81, the 9 day of September, 1981, at 9 o'clock M., E.S.T.

DATE: 9-8-81

Charles W. Westerman  
CHARLES W. WESTERMAN  
CITY CLERK

Read the third time in full and on motion by J. Debnick, seconded by Allen, and duly adopted, placed on its passage. PASSED (~~Lost~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	<u>9</u>	_____	_____	_____	_____
BURNS	<u>✓</u>	_____	_____	_____	_____
EISBART	<u>✓</u>	_____	_____	_____	_____
GiaQUINTA	<u>✓</u>	_____	_____	_____	_____
NUCKOLS	<u>✓</u>	_____	_____	_____	_____
SCHMIDT, D.	<u>✓</u>	_____	_____	_____	_____
SCHMIDT, V.	<u>✓</u>	_____	_____	_____	_____
SCHOMBURG	<u>✓</u>	_____	_____	_____	_____
STIER	<u>✓</u>	_____	_____	_____	_____
TALARICO	<u>✓</u>	_____	_____	_____	_____

DATE: 9-22-81

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE (RESOLUTION) No. 2-214-81 on the 22nd day of September, 1981.

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

(SEAL) John Nuckols  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 22nd day of September, 1981, at the hour of 11:30 o'clock A. M., E.S.T.

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 24th day of Sept. 1981, at the hour of 11 o'clock A. M., E.S.T.

Winfield C. Moses, Jr.  
WINFIELD C. MOSES, JR.  
MAYOR

S-81-09-03

BILL NO. \_\_\_\_\_

REPORT OF THE COMMITTEE ON FINANCE

WE, YOUR COMMITTEE ON Finance TO WHOM WAS REFERRED AN  
ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE TO ISSUE ITS

"ECONOMIC DEVELOPMENT FIRST MORTGAGE REVENUE BONDS, SERIES 1981

A (MULLINIX PACKAGES, INC. PROJECT)" AND APPROVING OTHER ACTIONS

IN RESPECT THERETO

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG. LEAVE TO REPORT  
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE No. PASS.

VIVIAN G. SCHMIDT, CHAIRMAN

JAMES S. STIER, VICE CHAIRMAN

MARK E. GIAQUINTA

PAUL M. BURNS

ROY J. SCHOMBURG

*Vivian G. Schmidt*  
*James S. Stier*  
*Mark E. Giaquinta*  
*Paul M. Burns*  
*Roy J. Schomburg*

9-22-81  
CONCURRED IN  
DATE \_\_\_\_\_ CHARLES W. WESTERMAN, CITY CLERK



RESOLUTION

FORT WAYNE ECONOMIC DEVELOPMENT COMMISSION  
FORT WAYNE, INDIANA

WHEREAS, the City of Fort Wayne has in 1976 issued certain revenue bonds; and

WHEREAS, Mullinix Packages, Inc. now requests the City of Fort Wayne to issue additional bonds on a parity with the previous bonds.

BE IT RESOLVED BY THE FORT WAYNE ECONOMIC DEVELOPMENT COMMISSION THAT:

Section 1. It finds that the proposed financing of supplemental economic development facilities referred to in the Financing Agreement (as defined in the Minutes) presented to this meeting for Mullinix Packages, Inc. complies with the purposes and provisions of I.C. 36-7-12 (formerly I.C. 18-6-4.5) and will be of benefit to the health and welfare of the City of Fort Wayne and its citizens.

Section 2. The substantially final forms of First Supplemental Lease Agreement and First Supplemental Mortgage and Indenture of Trust, and a proposed form of Ordinance for the Common Council presented to this meeting are hereby approved.

Section 3. The proposed economic development facilities will not have an adverse competitive effect on any similar facilities already under construction or in operation in the City of Fort Wayne, Indiana.

Section 4. The Secretary shall initial and then insert a copy of the forms of documents approved by this Resolution in the Minute Book of this Commission.

Section 5. A copy of this Resolution and the other documents approved by this Resolution and the proposed form of Ordinance shall be presented in their substantially final form by Counsel for the Economic Development Commission or by any member of this Commission to the Clerk for presentation to the Common Council.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 1981.

FORT WAYNE ECONOMIC DEVELOPMENT  
COMMISSION

By

Charles M. Henry Vice Pres.  
President

SS  
Secretary





# The City of Fort Wayne

ECONOMIC DEVELOPMENT COMMISSION

September 3, 1981

Common Council of the  
City of Fort Wayne  
City-County Building  
One Main Street  
Fort Wayne, Indiana 46802

Re: City of Fort Wayne, Indiana  
Economic Development First Mortgage  
Revenue Bonds, Series 1981 A  
(MULLINEX PACKAGES, INC. PROJECT)

Gentlemen and Mrs. Schmidt:

Pursuant to the provisions of I.C. 36-7-12-24, there are enclosed copies of the following:

1. Resolution containing a report on the proposed financing of economic development facilities, which report has been submitted to the President of the Fort Wayne Plan Commission having jurisdiction where the facilities are to be located, together with the minutes of the June 18, 1981 meeting of the Fort Wayne Economic Development Commission evidencing adoption of such resolution.
2. Resolution approving the proposed financing and approving the form and terms of Economic Development Revenue Bonds, First Amendment to and Supplement of Mortgage and Indenture of Trust, and First Amendment to and Supplement of Lease Agreement, and Bond forms. The Economic Development Commission, at a public hearing, adopted said resolution on September 3, 1981.
3. Each of the financing documents referred to in the preceding paragraph.

Common Council of the City of Fort Wayne  
September 3, 1981  
Page Two

The Fort Wayne Economic Development Commission requests that you consider these enclosures and the proposed financing contemplated thereby, and take such additional action as is necessary to complete such financing.

ECONOMIC DEVELOPMENT COMMISSION

BY: 

\_\_\_\_\_  
Timothy S. Borne  
Its Secretary

INDUCEMENT RESOLUTION OF  
FORT WAYNE ECONOMIC DEVELOPMENT COMMISSION  
ON APPLICATION OF  
MULLINIX PACKAGES, INC. PROJECT

---

WHEREAS, the City of Fort Wayne, Indiana, (the "Issuer") is authorized by Indiana Code §18-6-4.5 (the "Act") to issue revenue bonds for the financing of economic development facilities, the funds from said financing to be used for the acquisition, construction and equipping of said facilities, and said facilities to be either sold or leased to the user or developer; and

WHEREAS, MULLINIX PACKAGES, INC. (the "Applicant"), has filed its Application with the Fort Wayne Economic Development Commission (the "Commission"); and

WHEREAS, Applicant has advised the Commission that it proposes that the Issuer issue economic development revenue bonds and that the proceeds thereof (1) either be used by the Issuer to acquire, construct and equip an economic development facility and sell or lease the same to the Applicant; or (2) that such proceeds be loaned to the Applicant for the same purposes; and

WHEREAS, the economic development facility will consist of an expansion of a manufacturing facility to be located at 3511 Engle Road, Fort Wayne, Allen County, Indiana (the "Project"); and

WHEREAS, the diversification of industry and increase of job opportunities to be achieved by the completion of the Project will be of public benefit to the health, safety and general welfare of the Issuer and its citizens; and

WHEREAS, it would appear that the financing of the Project would be of public benefit to the health, safety and general welfare

of the Issuer and its citizens or the citizens of Allen County, Indiana; and

WHEREAS, the acquisition, construction and equipping of the facility will not have an adverse competitive effect on any similar facility already constructed or operating in Allen County, Indiana.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION AS FOLLOWS:

1. The Commission hereby finds and determines that the promotion of diversification of economic development and job opportunities in Fort Wayne, Indiana, is desirable to preserve the health, safety and general welfare of the citizens of the Issuer, and that it is in the public interest that the Commission and the Issuer take such action as they lawfully may to encourage economic development, diversification of industry and promotion of job opportunities in and near the Issuer.

2. The Commission hereby finds and determines that the issuance and sale of economic development revenue bonds of the Issuer in an amount of approximately \$900,000 for the acquisition, construction and equipping of the Project and the sale or leasing of the Project to the Applicant or the loan of the proceeds of the revenue bonds to the Applicant, will serve the public purposes referred to above, in accordance with the Act.

3. In order to induce the Applicant to proceed with the acquisition, construction and equipping of the Project, the Commission hereby finds and determines that (i) it will take of cause to be taken such actions pursuant to the Act as may be required to implement the aforesaid financing or as it may deem appropriate to said end; provided that all of the foregoing shall be mutually acceptable to the Issuer and the Applicant; and (ii) it will adopt such resolutions and authorize the execution and delivery of such instruments and the taking of such action as may be necessary and advisable for the authorization, issuance and sale of said economic development revenue bonds.

4. All costs of the Project which may be financed under the Act will be permitted to be included as part of the bond issue to finance the Project, and the Issuer will sell or lease the Project to the Applicant or loan the proceeds from the sale of the bonds to the Applicant for the same purposes.

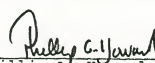
ADOPTED this 18th day of June, 1981.

FORT WAYNE ECONOMIC DEVELOPMENT  
COMMISSION

  
\_\_\_\_\_  
Sidney R. Sheray

Charles M. Henry

  
\_\_\_\_\_  
Timothy Borne

  
\_\_\_\_\_  
Phillip A. Howard

\_\_\_\_\_

REPORT OF THE FORT WAYNE ECONOMIC DEVELOPMENT  
COMMISSION CONCERNING THE PROPOSED FINANCING  
OF ECONOMIC DEVELOPMENT FACILITIES FOR  
Mullinix Packages

Having been furnished certain data by the above applicant, and having had discussions with representatives of said applicant, the Fort Wayne Economic Development Commission now submits the following report pursuant to Indiana Code 18-6-4.5-16.

Description of Proposed Facilities

Manufacturing facility for the purpose of manufacturing plastic food containers  
to be located at 3511 Engle Road within the city limits of Fort Wayne, Allen  
County, Indiana.

Estimate of Public Services Required

All public services, including water and sewage, now exist. No public facilities will be made necessary on account of the proposed facilities.

Total Project Cost

The total project cost for the purchase, construction and equipping of the facilities is estimated to be \$900,000.00, including costs of issuance of the economic development revenue bonds.


Number of Jobs and Estimated Payroll

It is anticipated there will be approximately 28 new jobs created by this project with an estimated payroll increase of approximately \$500,000.00 annually.

Adverse Competitive Effect

The construction of the facilities will not have an adverse competitive effect on any similar facilities already constructed or operating in or near Fort Wayne, Indiana.

Dated this 18 day of June, 1981.

  
Sidney Sheray

  
Timothy Borne

  
Charles Henry

  
Phil Howard

## MINUTES

### FORT WAYNE ECONOMIC DEVELOPMENT COMMISSION

JUNE 18, 1981

A meeting of the Fort Wayne Economic Development Commission was held at 11:00 a.m. in Room 128 of the City County Building, Fort Wayne, Indiana, on June 18, 1981.

Commission members present were: Sidney Sheray, Timothy Borne, and Philip Howard. Charles Henry and Dr. Jack Gren were absent.

A meeting was called to order by Commission President Sidney Sheray.

A continuation of the Standard Building Partnership had been previously requested by Attorney William Swift. The discussion was thus continued to the July 2, 1981 Commission meeting.

The next item of business was the TECO, Inc. project. Attorney Robert Haller spoke for the applicant. The Commission approved a Report on the project as had been requested by the applicant's bond council, Ice Miller Donadio & Ryan. A motion to approve the Report was made by Mr. Borne, seconded by Mr. Howard and passed unanimously.

The Commission next considered the application of Custom Label, Inc. Mr. John Hurd and Attorney Thomas Blee spoke on behalf of the project. Legal notice of the public hearing for Custom Label, Inc. was duly published in the Fort Wayne Journal Gazette on June 13, 1981. The \$250,000 project will consist of the acquisition and equipping of an existing building located in Edgewood Industrial Park. No one spoke in opposition to the project. On motion by Mr. Howard and second by Mr. Borne, an inducement resolution was unanimously approved.

The application of Mark Douglas, Inc. was then considered for final approval. Attorney Norman Snow spoke on behalf of the applicant. Legal notice of the public hearing for Mark Douglas, Inc. was duly published in the Fort Wayne Journal Gazette on June 13, 1981. No one spoke in opposition to the project. Motion was made to approve the final documents by Mr. Borne. Mr. Howard seconded the motion. Mr. Howard and Mr. Borne voted to approve the motion and Mr. Sheray abstained.

Next, Mr. Robert Behr of the Private Industry Council (PIC) explained to the Commission the PIC programs available for job training and placement of unemployed persons.



Discussion was then opened on the application of Colligan, Sheehan, Colligan, Inc. Mr. Eugene Sheehen spoke for the project. Legal notice of the public hearing for Colligan, Sheehan, Colligan was duly published in the Fort Wayne Journal Gazette on June 13, 1981. The \$100,000 issue is supplimental to a previous bond issue of \$300,000. The purchaser will be the Cincinnati Insurance Company. The interest rate is 12 percent for a term of 20 years. No one spoke in oppositon to the project. On motion by Mr. Howard and second by Mr. Borne, an inducement resolution was unanimously approved.

The application of Mullinix Packages, Inc. was the next item of business. Mr. George Tueken and Attorney James Prickett spoke for the project. Legal notice of the public hearing for Mullinix Packages, Inc., was duly published in the Fort Wayne Journal Gazette on June 13, 1981. The bonds are being purchased by Lincoln National Bank and Trust Company. The interest rate will be 70% of the prime rate adjusted quarterly for a term of 10 years. No one spoke in opposition to the project. On motion by Mr. Borne and second by Mr. Howard, an inducement resolution was unanimously approved.

The minutes of the Economic Development Commission meeting held on May 29, 1981, were unanimously approved on motion by Mr. Borne and second by Mr. Sheray.

There being no further business before the Commission, the meeting was adjourned.



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Timothy Borne, Secretary

## Memorandum

To Economic Development Commission

Date June 16, 1981

From Norm Abbott, Director of Planning *NA*

Subject Mullinux Packages, Inc., E.D.C. Bond \$900,000

### COPIES TO:

The proposed expansion of the existing Mullinux Packages, Inc. facility at the intersection of Engle Road and Mark Drive is consistent with the goals of the Fort Wayne Comprehensive Plan. Expansion of this facility complements the economic development policy to encourage maintenance and expansion of existing business.

The proposed use of the expanded facility is within the requirements of the present zoning, M2, which permits general industrial uses.

MINUTES  
FORT WAYNE ECONOMIC DEVELOPMENT COMMISSION

September 3, 1981

A meeting of the Fort Wayne Economic Development Commission was held on September 3, 1981 at 11:00 a.m. in Room 128 of the City-County Building.

Commission members present were: Timothy Borne, Charles Henry, Phil Howard and Stan Lipp. Mr. Sid Sheray was absent.

Commission Vice President Charles Henry called the meeting to order.

The minutes of the August 24, 1981 Economic Development Commission meeting were approved on motion by Mr. Lipp and second by Mr. Howard. A letter which was sent from the Commission to City Council concerning restaurant financing was entered into the record.

The first application discussed was 4100 Columbia Realty, Inc. This application was continued from the August 6, 1981 Commission meeting. No one representing the applicant appeared to discuss the project. It was noted that a filing fee for this project had not yet been received by the City Controller. Ms. Debbie Shell reported that the applicant had received a variance for the property in question from the Fort Wayne Board of Zoning Appeals on August 27, 1981 and that all permits were in order to date. The Commission took no action on the application.

The next application discussed was Mullinix Packages, Inc. Attorney John Martin spoke on behalf of the project. Legal notice of the public hearing was duly published in the Fort Wayne Journal Gazette and the Fort Wayne News Sentinel on August 24, 1981. The final forms and documents for the bond issue had been reviewed by Commission Attorney John Wernet. He reported that all papers were in order. The issue of \$500,000 will be purchased by the Lincoln National Bank at a rate equal to 70% of the prime commercial lending rate as announced by Lincoln National Bank. The term will be ten years. Mr. Martin reported that final approval for an additional \$400,000 will be sought at a later date. The inducement resolution for this project was for the amount of \$900,000. Mullinix Packages, Inc. closed a bond issue in 1976 for \$800,000 and the present issues will be treated as amendments to that prior issue. Upon motion by Mr. Howard and second by Mr. Borne. The final financing for the project was unanimously approved.

The last item on the agenda was the adoption of a resolution for TECO, Inc. This project had previously received final approval. At the request of attorney Robert Haller and bond council for the project, a resolution ratifying certain prior actions was unanimously approved on motion by Mr. Lipp and second by Mr. Borne.

There being no further business to come before the Commission, the meeting was adjourned.

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Timothy Borne, Secretary

DIGEST SHEETTITLE OF ORDINANCE SpecialL-81-04-03DEPARTMENT REQUESTING ORDINANCE Economic Development CommissionSYNOPSIS OF ORDINANCE An Ordinance authorizing the City of FortWayne to issue its Economic Development First Mortgage Revenue Bonds,Series 1981 A (MULLINIX PACKAGES, INC. PROJECT), and approval offinal financing documents. An Inducement Resolution for this Projectwas previously adopted by City Council.EFFECT OF PASSAGE Permanent Financing of the Facilities.EFFECT OF NON-PASSAGE None of the above.MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) None.

ASSIGNED TO COMMITTEE (PRESIDENT) \_\_\_\_\_

FIRST AMENDMENT TO AND SUPPLEMENT OF  
MORTGAGE AND INDENTURE OF TRUST

CITY OF FORT WAYNE, INDIANA

TO

LINCOLN NATIONAL BANK AND TRUST COMPANY OF FORT WAYNE,  
AS TRUSTEE

CITY OF FORT WAYNE, INDIANA  
ECONOMIC DEVELOPMENT FIRST MORTGAGE REVENUE BONDS,  
SERIES 1981 A (MULLINIX PACKAGES, INC. PROJECT)

Dated as of September 1, 1981

Total Issue \$500,000

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FIRST AMENDMENT TO AND SUPPLEMENT OF  
MORTGAGE AND INDENTURE OF TRUST

THIS FIRST AMENDMENT TO AND SUPPLEMENT OF MORTGAGE AND INDENTURE OF TRUST ("First Amendment to Indenture") dated as of this first day of September, 1981, by and between the CITY OF FORT WAYNE, INDIANA, a municipal corporation organized and existing in the County of Allen, State of Indiana ("Lessor" or "Issuer") and LINCOLN NATIONAL BANK AND TRUST COMPANY OF FORT WAYNE, a national banking association duly organized, existing and authorized to accept and execute trusts of the character herein set out under the laws of the United States of America, with its principal office at 116 East Berry Street, Fort Wayne, Indiana 46802, as Trustee ("Trustee");

WITNESSETH:

WHEREAS, in order to finance certain economic development facilities to be leased to Mullinix Packages, Inc., the Issuer and the Trustee acting pursuant to Indiana Code, Title 18, Article 6, Chapter 4.5 ("Act") did enter into a Mortgage and Indenture of Trust, dated as of October 1, 1976, to issue the \$800,000, Economic Development First Mortgage Revenue Bonds (Mullinix Packages, Inc. Project) ("Series 1976 Bonds"), said Mortgage and Indenture of Trust having been recorded on November 5, 1976, in the office of the Recorder of Allen County, Indiana, as Instrument No. \_\_\_\_\_ ("Original Indenture"); and

WHEREAS, the Lessee and the Issuer did enter into a Lease Agreement between the Issuer and Lessee, dated as of October 1, 1976 ("Original Lease"), said Original Lease having been recorded on November 5, 1976, in the Office of the Recorder of Allen County, Indiana, as Instrument No. 76-27878; and

WHEREAS, the Issuer and Lessee have entered into a First Amendment to and Supplement of Lease Agreement, dated as of September 1, 1981 ("First Amendment to Lease") for the lease of the economic development facilities to be financed with the proceeds of the Series 1981 A Bonds (the Original Lease and First Amendment to Lease collectively the "Lease"); and

WHEREAS, upon recommendation of the Fort Wayne Economic Development Commission, in order to finance certain additional economic development facilities to be leased to Lessee, the Common Council of the Issuer has by the adoption of an ordinance determined to issue its City of Fort Wayne, Indiana, Economic



Development First Mortgage Revenue Bonds, Series 1981 A (Mullinix Packages, Inc. Project) in the aggregate principal amount of \$500,000 ("Series 1981 A Bonds") (the Series 1976 Bonds, Series 1981 A Bonds and any Additional Bonds collectively the "Bonds"); and

WHEREAS, the Issuer has caused all actions to be taken which are required by the laws and statutes of the State of Indiana for the authorization, issuance and sale of the Series 1981 A Bonds, said Series 1981 A Bonds to be on a parity with the Series 1976 Bonds; and

WHEREAS, the Series 1981 A Bonds are to be issued pursuant to the terms and provisions of the Original Indenture, as supplemented and amended by this First Amendment to Indenture, said Original Indenture to remain in full force and effect, except as expressly amended by this First Amendment to Indenture (the Original Indenture and the First Amendment to Indenture collectively the "Indenture"); and

WHEREAS, the Series 1981 A Bonds and the Trustee's certificate of authentication to be endorsed thereon, are all to be in substantially the following forms, to-wit:

(Form of Fully Registered Series 1981 A Bonds)

UNITED STATES OF AMERICA  
STATE OF INDIANA  
COUNTY OF ALLEN

CITY OF FORT WAYNE, INDIANA ECONOMIC  
DEVELOPMENT FIRST MORTGAGE REVENUE BONDS,  
SERIES 1981 A (MULLINIX PACKAGES, INC. PROJECT)

NO. BR-\_\_\_\_\_

\$ \_\_\_\_\_

The City of Fort Wayne, Indiana, a municipal corporation organized and existing under the laws of the State of Indiana (hereinafter called the "Issuer"), for value received, promises to pay solely from the source and as hereinafter provided, to Lincoln National Bank and Trust Company of Fort Wayne, or registered assigns, the principal sum of Five Hundred Thousand Dollars (\$500,000) and in like manner to pay interest on said sum quarterly on January 1, April 1, July 1

and October 1 of each year, commencing on October 1, 1981, and until said principal sum is paid from the date hereof at the rate per annum equal to 70% of the prime commercial lending rate announced by Lincoln National Bank and Trust Company of Fort Wayne at its principal office in Fort Wayne, Indiana, which rate shall be determined by reference to such prime rate in effect on the first day of each quarter, commencing October 1, 1981, and shall remain in effect for interest accruing during such quarter; provided that interest due on October 1, 1981, shall be determined by reference to such prime rate in effect on September 1, 1981. Interest shall be calculated on the basis of a year of 360 days consisting of twelve 30-day months. The principal is payable on January 1, April 1, July 1 and October 1 of each year in installments of \$ 12,500 commencing on January 1, 1982, and continuing to and including October 1, 1991, except as the provisions hereinafter set forth with respect to redemption prior to maturity may become applicable hereto, both principal of and interest on this Series 1981 A Bond being payable in lawful money of the United States of America. Except for the last installment of principal, the principal of and interest on this Series 1981 A Bond are payable by check or draft mailed to the registered owner hereof at his address as it appears on the registration books of Lincoln National Bank and Trust Company of Fort Wayne, in the City of Fort Wayne, Indiana, as Trustee, or its successor in trust or such other address as is furnished to said Trustee by the registered owner hereof. The last installment of principal of this Series 1981 A Bond is payable on presentation and surrender thereof at the principal office of said Trustee.

This Series 1981 A Bond is one of the Series 1981 A Bonds issued under the hereinafter described Indenture, in the aggregate principal amount of Five Hundred Thousand Dollars (\$500,000) (hereinbefore and hereinafter referred to as the "Series 1981 A Bonds"), for the purpose of providing funds to finance the cost of acquiring, constructing and installing certain building improvements and machinery, equipment and personal property to be used in connection therewith (such building improvements and machinery, equipment and personal property being hereinafter referred to as the "Additional Project"), and for the purpose of paying expenses incidental thereto, as so to increase employment and promote the diversification of economic development in and near the City of Fort Wayne,

Indiana. The cost of acquiring, constructing and installing certain real estate, interests in real estate, initial building improvements and initial machinery, equipment and personal property to be used in connection therewith (such real estate, interests in real estate, initial building improvements and initial machinery, equipment and personal property being hereinafter being referred to as the "Original Project") was financed with the proceeds of the City of Fort Wayne, Indiana, Economic Development First Mortgage Revenue Bonds (Mullinix Packages, Inc. Project) (hereinafter referred to as "Series 1976 Bonds"). (Hereinafter the Original Project and Additional Project collectively referred to as the "Project.")

The Original Project was leased by the Issuer to Mullinix Packages, Inc., an Indiana corporation, under the terms of the Lease Agreement, dated as of October 1, 1976 (hereinafter referred to as the "Original Lease"). The Additional Project has been leased by the Issuer to the Lessee under the terms of a First Amendment to and Supplement of Lease Agreement dated as of September 1, 1981 (hereinafter referred to as the "Second Amendment to Lease") and under the terms of the Original Lease. (Hereinafter the Original Lease and First Amendment to Lease are collectively referred to as the "Lease.")

The Series 1976 Bonds were all issued under and are equally and ratably secured by and entitled to the security of a Mortgage and Indenture of Trust, dated as of October 1, 1976 (hereinafter referred to as the "Original Indenture"), duly executed and delivered by the Issuer to Lincoln National Bank and Trust Company of Fort Wayne, in the City of Fort Wayne, Indiana, as Trustee (the term "Trustee" where used herein referring to said Trustee or its successors in said trust), which Original Indenture is recorded in the Office of the Recorder of Allen County, Indiana. The Series 1981 A Bonds are issued under and are equally and ratably secured by and entitled to the security of the Original Indenture, as supplemented and amended by the First Amendment to and Supplement of Mortgage and Indenture of Trust, dated as of September 1, 1981 (hereinafter referred to as the "First Amendment to Indenture"). (Hereinafter the Original Indenture and First Amendment to Indenture are collectively referred to as the "Indenture.") It is provided in the Original Indenture that the Issuer may issue Additional Bonds (as defined in the Original Indenture) from time to time under certain terms and conditions contained therein and if issued, such Additional Bonds will rank

pari passu with the Series 1976 Bonds and the Series 1981 A Bonds. (Hereinafter the Series 1976 Bonds, the Series 1981 A Bonds and the Additional Bonds are collectively referred to as the "Bonds.")

Reference is made to the Indenture and to any additional indenture supplemental thereto for a description of the property mortgaged, the provisions, among others with respect to the nature and extent of the security, the rights, duties and obligations of the Issuer and the Trustee, the rights of the holders of the Bonds, and the terms on which the Bonds are or may be issued and secured and to all the provisions of which the holder hereof by the acceptance of this Series 1981 A Bond assents.

This Series 1981 A Bond is transferable by the registered holder hereof in person or by his attorney duly authorized in writing at the principal office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Series 1981 A Bond. Upon such transfer, a new registered Series 1981 A Bond or Series 1981 A Bonds without coupons of the same maturity, of authorized denomination or denominations, for the same aggregate principal amount will be issued to the transferee in exchange therefor.

The Issuer and the Trustee may deem and treat the registered holder hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and premium, if any, hereon and interest due hereon and for all other purposes, and neither the Issuer nor the Trustee nor any paying agent shall be affected by any notice to the contrary.

The Series 1981 A Bonds are issuable as coupon Bonds, registrable as to principal only, in the denomination of \$5,000 and as registered Series 1981 A Bonds without coupons in denominations of \$5,000 and any whole multiple thereof. Subject to the limitations, and upon payment of the charges provided in the Indenture, registered Series 1981 A Bonds without coupons may be exchanged for like aggregate principal of coupon Bonds of the same maturity bearing all unmaturred coupons (and any matured coupons in default), or for like aggregate principal amount of registered Series 1981 A Bonds without coupons of the same maturity of

other authorized denominations, and coupon Series 1981 A Bonds bearing all unmatured coupons (and any matured coupons in default) may be exchanged for a like aggregate principal amount of registered Series 1981 A Bonds without coupons of the same maturity of authorized denominations.

The Series 1976 Bonds and the Series 1981 A Bonds are callable for redemption in the event (1) of availability of title insurance proceeds or of excess Project Fund moneys or of damage to or destruction of the Project, or any part thereof, or condemnation of the Project or any part thereof, to the extent provided in Sections 3.2, 4.3, 7.1 and 7.2 of the Lease, or (2) the Lessee shall exercise its option to purchase the Project or the interest of the Issuer in the Project as provided in subsections (a), (b) or (c) of Section 11.2 of the Lease, or (3) a Determination of Taxability (as defined in the Lease) occurs pursuant to Section 11.6 of the Lease. If called for redemption as a result of the events referred to in (1) or (2) above, such Series 1976 Bonds and Series 1981 A Bonds shall be subject to redemption by the Issuer at any time, in whole or (in the case of redemption pursuant to Section 3.2, 4.3, 7.1 or 7.2 of the Lease) in part, in the inverse order of their maturity (less than all of said Series 1976 Bonds and Series 1981 A Bonds to be selected by lot in such manner as may be designated by the Trustee), at a redemption price of 100% of the principal amount thereof plus accrued interest to the redemption date. If called for redemption as a result of the event referred to in (3) above, the Series 1981 A Bonds shall be subject to redemption by the Issuer at any time as a whole at a redemption price of 100% of the principal amount thereof plus accrued interest to the redemption date, plus a premium equal to the interest borne by the Series 1981 A Bonds from the Event of Taxability (as defined in the Lease) to the date of redemption.

Any of the Series 1981 A Bonds as may be outstanding are also subject to optional redemption by the Issuer prior to maturity on any interest payment date, from any funds, in whole or in part, in inverse order of their maturity (less than all of said Series 1981 A Bonds to be selected by lot in such manner as may be designated by the Trustee), at the principal amount thereof plus accrued interest to the redemption date.

In the event any of the Bonds are called for redemption as aforesaid, notice thereof identifying the Bonds to be redeemed will be given by publication at least twice in a newspaper or financial journal of general circulation published in the City of New York, New York, the first of which shall be published not less than thirty days prior to the redemption date, and in the case of the redemption of Bonds at the time registered as to principal (except to bearer) or both principal and interest, upon mailing a copy of the redemption notice by registered or certified mail at least thirty days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books; provided, however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of any proceedings for the redemption of Bonds. If all of the Bonds to be redeemed are at the time registered as to principal (except to bearer), notice by mailing given by registered or certified mail to the registered owner or owners thereof, at their addresses shown on the registration books, not less than thirty days prior to the date fixed for redemption, shall be sufficient, and published notice of the call for redemption need not be given.

All Bonds so called for redemption will cease to bear interest on the specified redemption date, provided funds for their redemption are on deposit at the place of payment at that time, and shall no longer be protected by the Indenture and shall not be deemed to be outstanding under the provisions of the Indenture. If, because of the temporary or permanent suspension of the publication or general circulation of any newspaper or financial journal, or for any other reason, it is impossible or impractical to publish such notice of call for redemption in the manner herein provided, then such publication in lieu thereof as shall be made with the approval of the Trustee shall constitute a sufficient publication of notice.

This Series 1981 A Bond and such other Series 1981 A Bonds of the series of which it forms a part are issued pursuant to and in full compliance with the constitution and laws of the State of Indiana, particularly Title 18, Article 6, Chapter 4.5 of the Indiana Code, and pursuant to certain ordinances adopted and approved by the Common Council of the

Issuer, which ordinances authorize the execution and delivery of the Indenture and the Lease. This Series 1981 A Bond and the series of which it forms a part and the interest coupons appertaining hereto are limited obligations of the Issuer and are payable solely from the revenues and other amounts derived from the leasing or sale of the Project and otherwise as provided in the Indenture and the Lease. The Series 1981 A Bonds and the interest coupons appertaining thereto do not now and shall never constitute a charge against the general credit or taxing powers of the Issuer.

Pursuant to the provisions of the Lease, rental payments sufficient for the prompt payment when due of the principal of, premium, if any, and interest on the Bonds are to be paid by the Lessee to the Trustee for the account of the Issuer and deposited in a special account created by the Issuer and designated "Fort Wayne Economic Development Revenue Bond Fund-Mullinix Packages, Inc. Project," and such rental payments have been duly pledged for that purpose, the rights of the Issuer under the Lease have been assigned to the Trustee, and the Project has been mortgaged under the Indenture to secure payment of such principal, premium, if any, and interest.

The holder of this Series 1981 A Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the Bonds issued under the Indenture and then outstanding may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. Modifications or alterations of the Indenture or of any supplements thereto, may be made only to the extent and in the circumstances permitted by the Indenture.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Series 1981 A Bond do exist, have happened and

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have been performed in due time, form and manner as provided by law, and that the issuance of this Series 1981 A Bond and the series of which it forms a part, together with all other obligations of the Issuer, does not exceed or violate any constitutional or statutory limitation.

This Series 1981 A Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the certificate of authentication hereon shall have been duly executed by the Trustee.

IN WITNESS WHEREOF, the City of Fort Wayne, Indiana, has caused this Series 1981 A Bond to be executed in its name by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its Clerk, and its corporate seal to be hereunto imprinted, impressed or affixed, all as of the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

CITY OF FORT WAYNE, INDIANA

By \_\_\_\_\_  
Mayor

(SEAL)

Attest:

\_\_\_\_\_  
Clerk

(Form of Trustee's Certificate of Authentication)

This Series 1981 A Bond is one of the Series 1981 A Bonds described in ~~the~~ within-mentioned Indenture.

LINCOLN NATIONAL BANK AND  
TRUST COMPANY OF FORT  
WAYNE, as Trustee

By \_\_\_\_\_  
Authorized Officer

ASSIGNMENT

For Value Received \_\_\_\_\_ hereby  
sell (s), assign (s) and transfer (s) unto

\_\_\_\_\_  
(Please print or typewrite name  
and address including postal  
zip code of transferee)

\_\_\_\_\_  
(Social security  
number or employer  
identification number  
of transferee)

the within Series 1981 A Bond, together with accrued  
interest thereon and all right, title and interest  
thereto, and hereby irrevocably authorize(s) and  
appoint(s) \_\_\_\_\_ attorney to trans-  
fer said Series 1981 A Bond on the books of the within  
named Issuer with full power of substitution in the  
premises.

Dated \_\_\_\_\_

\_\_\_\_\_  
L.S.

In the presence of:  
  
\_\_\_\_\_

WHEREAS, all things necessary to make the Series 1981 A Bonds, when authenticated by the Trustee and issued as in the Indenture provided, the valid, binding and legal obligations of the Issuer according to their import thereof, and to constitute the Indenture a valid lien on the properties mortgaged and a valid assignment and pledge of the rentals and revenues derived from the Lease as security for the payment of the principal of and interest on the Bonds, and a valid assignment of the rights of the Issuer under the Lease, have been done and performed, and the creation, execution and delivery of the Indenture, and the creation, execution and issuance of the Series 1981 A Bonds, subject to the terms hereof, have in all respects been duly authorized;

## GRANTING CLAUSES

NOW, THEREFORE, THIS FIRST AMENDMENT TO AND SUPPLEMENT OF MORTGAGE AND INDENTURE OF TRUST.

### WITNESSETH:

That the Issuer in consideration of the premises, the acceptance by the Trustee of the trusts hereby created, the purchase and acceptance of the Series 1976 Bonds and the Series 1981 A Bonds by the purchasers thereof, One Dollar duly paid to the Issuer by the Trustee at or before the execution and delivery of these presents, and of other good and valuable considerations, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of, premium, if any, interest and any other sums payable on the Bonds outstanding under the Indenture, from time to time, according to their tenor and effect, and to secure the observance and performance by the Issuer of all covenants expressed or implied in the Indenture and in the Bonds, does hereby grant, bargain, sell, convey, mortgage, assign and pledge unto the Trustee (to the extent of its legal capacity to hold the same for the purposes hereof), and unto its successors in trust, and to its assigns forever, all of the Issuer's estate, right, title and interest in, to and under any and all of the following described property rights and interests (herein called the "Mortgaged Property" or "Trust Estate" or "property herein conveyed"):

### GRANTING CLAUSE FIRST

The right, title and interest of the Issuer in the real estate described in Exhibit A attached hereto and made a part hereof, together with the entire interest of the Issuer in and to all buildings, structures, improvements and appurtenances now standing or at any time hereafter constructed or placed, upon such real estate including all right, title and interest of the Issuer, if any, in and to all building material, building equipment and fixtures of every kind and nature whatsoever on said real estate or in any building, structures or improvement now or hereafter standing on said real estate, and the reversion or reversions, remainder or remainders, in and to said real estate and together with the entire interest of the Issuer in and to all and singular the tenements, hereditaments, easements, rights-of-ways, rights, privileges and appurtenances to said real estate, belonging or in anywise appertaining thereto, and all claims or demands whatsoever of the Issuer either at law or in equity, in possession or expectancy of, in and to said real estate, it being the intention of the parties hereto that, so far as may be permitted by law, all property of

the character hereinabove described, which is now or is hereafter acquired by the Issuer and is affixed or attached or annexed to said real estate, shall be and remain or become and constitute a portion of said real estate and the security covered by and subject to the lien of the Indenture, and together with all rents, income, revenues, issues and profits thereof, and the present and continuing right to make claim for, collect, receive and receipt for any and all of such rents, income, revenues, issues and profits arising therefrom or in connection therewith; subject, however, to Permitted Encumbrances.

#### GRANTING CLAUSE SECOND

The Lease which includes the Original Lease and the First Amendment To Lease, including all additional extensions and renewals of the term thereof, if any, together with all right, title and interest of the Issuer, as Lessor therein, thereto and thereunder, including but without limiting the generality of the foregoing, the present and continuing right to make claim for, collect, receive and receipt for any of the rents, income, revenues, issues and profits and other sums of money payable or receivable thereunder, whether payable as rents or otherwise, to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which the Issuer or any lessor is or may become entitled to do under the Lease, provided, that the assignment made by this clause shall not impair or diminish any obligation of the Issuer under the provisions of the Lease.

#### GRANTING CLAUSE THIRD

All moneys and securities from time to time held by the Trustee under the terms of the Indenture, which includes the Original Indenture and this First Amendment to Indenture, and any and all other real or personal property of every name and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred, as and for additional security under the Indenture, which includes the Original Indenture and this First Amendment to Indenture, by the Issuer or anyone in its behalf, or with its written consent to the Trustee which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

#### GRANTING CLAUSE FOURTH

The machinery, equipment, and other tangible personal property owned by the Issuer and described in Exhibit C attached hereto and made a part hereof (which machinery, equipment and

tangible personal property is to be located on the real estate described in Exhibit A attached hereto and made a part hereof), excluding property installed by the Lessee pursuant to Section 6.1 and 9.7 of the Lease, together with all other machinery, equipment and further tangible personal property which is now or hereafter acquired by the Issuer and which is now owned or hereafter located on the real estate described in Exhibit A attached hereto and made a part hereof, excluding property installed by the Lessee pursuant to Sections 6.1 and 9.7 of the Lease; subject, however, to Permitted Encumbrances.

TO HAVE AND TO HOLD all and singular the Trust Estate, whether now owned or hereafter acquired, unto the Trustee and its respective successors in said trust and assigns forever;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth in the Indenture, which includes the Original Indenture and this First Amendment to Indenture, for the equal and proportionate benefit, security and protection of all present and future holders and owners of the Bonds, and the bearers of all coupons appertaining thereto, if any, from time to time, issued under and secured by said Indenture without privilege, priority or distinction as to the lien or otherwise of any of the Bonds or coupons appertaining thereto, if any, over any of the others of the Bonds or coupons, if any, except as expressly provided herein;

PROVIDED, HOWEVER, that if the Issuer, its successors or assigns, shall well and truly pay or cause to be paid, the principal of the Bonds and the interest and premium, if any, due or to become due thereon, at the times and in the manner mentioned in the Bonds and the interest coupons, if any, pertaining to the Bonds, respectively, according to the true intent and meaning thereof, and shall cause the payments to be made into the Bond Fund as required under Article V of the Indenture or shall provide, as permitted by the Indenture for the payment thereof by depositing with the Trustee the entire amount due or to become due thereon, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of the Indenture to be kept, performed and observed by it, and shall pay or cause to be paid to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, of the Indenture, then upon such final payments the Indenture, which includes the Original Indenture and this Amendment to Indenture and the rights thereby and hereby granted shall cease, determine and be void; otherwise the Indenture, the Original Indenture, which includes this First Amendment to Indenture, to be and remain in full force and effect.

THE INDENTURE, WHICH INCLUDES THE ORIGINAL INDENTURE AND THIS FIRST AMENDMENT TO INDENTURE, FURTHER WITNESSETH, and it is expressly declared, that all Bonds, which includes the Series 1976 Bonds and Series 1981 A Bonds, issued and secured under the Original Indenture and this First Amendment to Indenture, are to be issued, authenticated and delivered and all said property, rights and interests, including, without limitation, the lease rentals, revenues and receipts, mortgaged or pledged by the Original Indenture and this First Amendment to Indenture are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as expressed in the Original Indenture and in this First Amendment to Indenture, and the Issuer has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with respective holders and owners, from time to time, of the Bonds, including the Series 1976 Bonds and Series 1981 A Bonds, or coupons, if any, or any part thereof as follows (subject, however, to the provisions of Section 203 of the Original Indenture);

## ARTICLE I

### Definitions

In addition to the words and terms defined in the Original Indenture and the words and terms incorporated by reference from the Original Lease, the words and terms defined in the First Amendment to Lease, including the words and terms defined in the preambles to the First Amendment to Lease, are incorporated herein and adopted by reference as if fully set forth herein, unless the context or use indicates another or different meaning or intent.

(End of Article I)



## ARTICLE II

### The Bonds

Section 201. Section 202 of the Original Indenture is supplemented by the addition of the following: "The Series 1981 A Bonds shall be designated City of Fort Wayne, Indiana, Economic Development First Mortgage Revenue Bonds, Series 1981 A (Mullinix Packages, Inc. Project). The Series 1981 A Bonds shall bear interest from their respective dates and shall be issuable as fully registered Bonds without coupons in the denominations of \$5,000 or any whole multiple thereof.

Each fully registered Series 1981 A Bond authenticated at or prior to delivery of the Series 1981 A Bonds shall be dated as of the delivery date of said Series 1981 A Bonds. Otherwise, each fully registered Series 1981 A Bond shall be dated as of the interest payment date to which interest has been paid next preceding the date on which it is authenticated, unless it is authenticated on an interest payment date, in which case it shall be dated as of such date.

Interest on the Series 1981 A Bonds shall be payable on January 1, April 1, July 1 and October 1 of each year commencing October 1, 1981. The Series 1981 A Bonds shall bear interest at the rate per annum equal to 70% of the prime commercial lending rate announced by Lincoln National Bank and Trust Company of Fort Wayne at its principal office in Fort Wayne, Indiana, which rate shall be determined by reference to such prime rate in effect on the first day of each quarter, commencing October 1, 1981, and shall remain in effect for interest accruing during such quarter; provided that interest due on October 1, 1981, shall be determined by reference to such prime rate in effect on September 1, 1981. The amount of interest due on each interest payment date shall be an amount equal to the interest accrued on the outstanding Series 1981 A Bonds from the last interest payment date, and with respect to the first interest payment date an amount equal to the interest accrued from the date of the Series 1981 A Bonds, up to and including the due date of such interest payment. The final interest payment due on the Series 1981 A Bonds and the interest due on any interest payment date shall be (i) an amount equal to the interest accrued on the outstanding Series 1981 A Bonds from the last interest payment date up to and including the due date of such interest payment. Interest shall be calculated on the basis of a year of 360 days consisting of twelve 30-day months. The Series 1981 A Bonds shall be issued as one fully registered Series 1981 A Bond in the amount of \$500,000. The Series 1981 A Bond shall be payable as to principal on January 1, April 1, July 1 and October 1 of each

year in installments commencing on January 1, 1982, to and including October 1, 1991, each in the amount of \$12,500."

Section 202. Delivery of Series 1981 A Bonds. Section 206 of the Original Indenture is supplemented by the addition of the following: "Upon the execution and delivery of this First Amendment to Indenture, the Issuer shall execute and deliver to the Trustee, and the Trustee shall authenticate the Series 1981 A Bonds to be issued in the aggregate principal amount of \$500,000 and deliver them to the purchasers as may be directed by the Issuer as provided in Section 211 of the Original Indenture."

Section 203. Issuance of Additional Bonds. Section 211 of the Original Indenture is supplemented by the addition of the following: "Evidence of the fact that the Issuer or Lessee has procured title insurance or a commitment for such title insurance in the form of an ALTA owner-mortgagee title policy or title commitment in the face amount of the value of the real property and building improvements to be financed by the issuance of the Additional Bonds, said title policy or title commitment to be issued by a company duly authorized to issue the same."

(End of Article II)

### ARTICLE III

#### Redemption of Series 1976 Bonds and Series 1981 A Bonds Before Maturity

Section 301. Redemption Dates and Prices. The first paragraph of Section 301 of the Original Indenture is supplemented by the addition of the following: "The Series 1981 A Bonds are also callable for redemption in the event of availability of title insurance proceeds or of excess Project Fund moneys or of damage to or destruction of the Project or any part thereof or condemnation of the Project or any part thereof to the extent provided in Sections 3.2, 4.3, 7.1 and 7.2 of the Lease. If called for redemption in such event, the Series 1981 A Bonds shall be subject to redemption by the Issuer at any time, in whole or in part in the inverse order of their maturity (less than all of said Series 1981 A Bonds of a single maturity to be selected by lot in such manner as may be designated by the Trustee), at 100% of the principal amount thereof plus accrued interest to the redemption date."

The fourth paragraph of Section 301 of the Original Indenture is supplemented by the addition of the following: "Any of the Series 1981 A Bonds as may be outstanding are also subject to optional redemption by the Issuer prior to maturity on any interest payment date, in whole or in part, in inverse order of their maturity (less than all of said Series 1981 A Bonds of a single maturity to be selected by lot in such manner as may be designated by the Trustee), at the principal amount thereof plus accrued interest to the redemption date."

(End of Article III)

#### ARTICLE IV

##### Custody and Application of Proceeds of Bonds

Section 401. Deposits in the Bond Fund. Section 601 of the Original Indenture is supplemented by the addition of the following: "From the proceeds of the sale of the Series 1981 A Bonds, there shall be deposited in the Bond Fund the sum equal to the accrued interest on such Series 1981 A Bonds."

(End of Article IV)

ARTICLE V

Miscellaneous

Section 501. Notices. The second paragraph of Section 1404 of the Original Lease shall be amended and shall provide for notice to the Lessee as follows:

"If to Lessee, at \_\_\_\_\_."

(End of Article V)

## ARTICLE VI

### RELATIVE POSITION OF THIS FIRST AMENDMENT TO AND SUPPLEMENT OF MORTGAGE AND INDENTURE OF TRUST AND THE ORIGINAL INDENTURE

Section 601. Relative Position of Indenture. All of the provisions of the Original Indenture, to the extent not inconsistent herewith, are hereby incorporated in this First Amendment to and Supplement of Mortgage and Indenture of Trust and made a part of this First Amendment to and Supplement of Mortgage and Indenture of Trust. Notwithstanding any provision of this First Amendment to and Supplement of Mortgage and Indenture of Trust, all of the provisions of the Original Indenture shall remain enforceable by the Lessee, the Issuer and the Trustee and the holders of any bonds issued thereunder as provided by its terms. The amendments to, and supplements of, the Original Indenture contained in this First Amendment to and Supplement of Mortgage and Indenture of Trust are designed to equally and ratably secure the Series 1981 A Bonds issued hereunder with the Series 1976 Bonds. Any amendment changing Series 1976 to Series 1981 A in the Indenture shall not have the effect of amending the Original Indenture as regards Series 1976 Bonds but shall merely add provisions with regard to the Series 1981 A Bonds. Any reference to the Series 1976 Bonds in the Original Indenture shall be construed to contain identical provisions as regards the Series 1981 A Bonds to the extent not inconsistent herewith.

(End of Article VI)

IN WITNESS WHEREOF, the City of Fort Wayne, Indiana, has caused these presents to be signed in its name and behalf by its Mayor, its corporate seal to be hereunto affixed and attested by its Clerk and to evidence its acceptance of the trust hereby created, Lincoln National Bank and Trust Company of Fort Wayne has caused these presents to be signed in its name and its behalf by one of its duly authorized officers, its official seal to be hereunto affixed and the same to be attested by one of its duly authorized officers, all as of the first day of September, 1981, but actually executed and delivered by the Trustee this \_\_\_\_ day of \_\_\_\_\_, 1981.

CITY OF FORT WAYNE, INDIANA

By \_\_\_\_\_  
Winfield C. Moses, Jr., Mayor

(SEAL)

Attest:

\_\_\_\_\_  
Charles W. Westerman, Clerk

LINCOLN NATIONAL BANK AND TRUST  
COMPANY OF FORT WAYNE, as Trustee

By \_\_\_\_\_

(SEAL)

Attest:

\_\_\_\_\_

This instrument prepared by Philip C. Genetos, Ice Miller  
Donadio & Ryan, 111 Monument Circle, Indianapolis, Indiana  
46204.

STATE OF INDIANA )  
 ) SS:  
COUNTY OF ALLEN )

Before me, \_\_\_\_\_, a Notary Public in and for the State and County aforesaid, personally appeared Winfield C. Moses, Jr. and Charles W. Westerman, with both of whom I am personally acquainted, and who, upon their oaths, acknowledged themselves to be the Mayor and Clerk, respectively, of the City of Fort Wayne, Indiana, one of the within named bargainers, and that they, as such Mayor and Clerk being authorized so to do, executed the foregoing instrument for the purposes contained therein by subscribing thereto the name of said City and attesting the official seal of said City by themselves as such Mayor and Clerk, respectively.

WITNESS my hand and notarial seal of office at City of Fort Wayne, Indiana, this \_\_\_\_ day of \_\_\_\_\_, 1981.

\_\_\_\_\_  
(Written Signature)

\_\_\_\_\_  
(Printed Signature)

Notary Public

(SEAL)

My commission expires:

My county of residence is:

\_\_\_\_\_

\_\_\_\_\_



STATE OF INDIANA )  
 ) SS:  
COUNTY OF ALLEN )

Before me, \_\_\_\_\_ a Notary Public in and for the State and County aforesaid, personally appeared \_\_\_\_\_ and \_\_\_\_\_, with both of whom I am personally acquainted, and who, upon their oaths, acknowledged themselves to be the \_\_\_\_\_ and \_\_\_\_\_, respectively, of Lincoln National Bank and Trust Company of Fort Wayne, one of the within named bargainers, and that they, as such \_\_\_\_\_ and \_\_\_\_\_ being authorized so to do, executed the foregoing instrument for the purposes contained therein by subscribing thereto the name of said bank and by affixing thereto and attesting the official seal of said bank by themselves as such \_\_\_\_\_ and \_\_\_\_\_, respectively.

WITNESS my hand and notarial seal of office at Fort Wayne, Indiana, this \_\_\_\_ day of \_\_\_\_\_, 1981.

\_\_\_\_\_  
(Written Signature)

\_\_\_\_\_  
(Printed Signature)

Notary Public

(SEAL)

My commission expires:

My county of residence is:

\_\_\_\_\_

\_\_\_\_\_

EXHIBIT A

ADDITIONAL PROJECT

LEASED LAND

Part of 30 Acres off the East side of the Northwest Quarter of the Northwest Quarter of Section 21, Township 30 North, Range 12 East, Allen County, Indiana, in particular described as follows to-wit:

421  
To arrive at the point of beginning, commence on the North line of said Quarter Section at its intersection by the West line of Mark Drive as dedicated in Instrument recorded in Deed Record 590, pages 420-~~211~~, thence South on the West line of said Mark Drive, a distance of 250.0 feet to the aforesaid point of beginning; thence continuing South on the West line of said Mark Drive, a distance of 157.3 feet; thence West on a line parallel to the North line of said Quarter Section, by a deflection right of 91 degrees 33 minutes, a distance of 430.0 feet; thence North by a deflection right of 88 degrees 27 minutes, a distance of 157.3 feet; thence East on a line parallel to the North line of said Quarter Section, a distance of 430.0 feet to the point of beginning; containing 1.55 Acres.

EXHIBIT B

ADDITIONAL PROJECT

LEASED EQUIPMENT

EXHIBIT C

ADDITIONAL PROJECT

BUILDING

8/28/81

FIRST AMENDMENT TO AND SUPPLEMENT  
OF LEASE AGREEMENT

BETWEEN

CITY OF FORT WAYNE, INDIANA

AND

MULLINIX PACKAGES, INC.

DATED AS OF SEPTEMBER 1, 1981

## FIRST AMENDMENT TO AND SUPPLEMENT OF LEASE AGREEMENT

FIRST AMENDMENT TO AND SUPPLEMENT OF LEASE AGREEMENT, dated as of the first day of September, 1981 (the "First Amendment to Lease"), between CITY OF FORT WAYNE, INDIANA, a municipal corporation organized and existing under the laws of the State of Indiana (the "Lessor"), and MULLINIX PACKAGES, INC. (the "Lessee"), a corporation organized under the laws of the State of Michigan.

### WITNESSETH:

WHEREAS, the Lessor and the Lessee have heretofore entered into a Lease Agreement (the "Original Lease"), dated as of October 1, 1976, which Original Lease was recorded in the Office of the Recorder of Allen County on November 5, 1976 with Instrument Number 76-27878, providing for leasing by the Lessor to the Lessee of certain manufacturing facilities and equipment therein;

WHEREAS, the Lessor and the Lessee now desire to enter into this First Amendment to Lease for the leasing by the Lessee of an addition to the existing facility now being leased by the Lessee and certain equipment therein, the cost of acquiring, constructing and equipping such additional facility to be financed with the proceeds of Lessor's economic development revenue bonds in the aggregate principal amount of \$500,000, to be issued pursuant to the Mortgage and Indenture of Trust (the "Original Indenture"), dated as of October 1, 1976, between the Lessor and Lincoln National Bank and Trust Company of Fort Wayne, as Trustee (the "Trustee"), as supplemented and amended by a First Amendment to and Supplement of Mortgage and Indenture of Trust (the "First Amendment to Indenture") dated as of September 1, 1981, between the Lessor and Trustee (the Original Indenture and First Amendment to Indenture collectively called the "Indenture") (the Original Lease and First Amendment to Lease collectively called the "Lease").

### ARTICLE I

#### Effect of Original Lease

Section 1.1. Effect of Original Lease. Except as herein specifically modified, amended or supplemented, the Original Lease shall remain in full force and effect.

## ARTICLE II

### Definitions

Section 2.1. Definitions. The definitions set forth in Article I of the Original Lease are hereby incorporated by reference. Furthermore, Article I of the Original Lease is hereby supplemented by the addition of the definitions set forth in the preambles to this First Amendment to Lease and the following definitions:

"Additional Project" means the additions to the Building and Leased Equipment, which are to be constructed and acquired pursuant to Section 4.1 of the Original Lease, as supplemented by Section 5.1 of this First Amendment to Lease, for the purpose of providing additional facilities, said Additional Project to be considered part of the Project for purposes of the agreements, representations and warranties set forth in the Original Lease.

"Series 1976 Bonds" means the Lessor's Economic Development First Mortgage Revenue Bonds (Mullinix Packages, Inc. Project), dated October 1, 1976, and issued in the original principal amount of \$800,000, of which \$\_\_\_\_\_ are outstanding as of September 1, 1981.

"Series 1981 A Bonds" means the Lessor's Economic Development First Mortgage Revenue Bonds, Series 1981 A (Mullinix Packages, Inc. Project) to be issued in the aggregate principal amount of \$500,000 and on a parity with the Series 1976 Bonds.

## ARTICLE III

### Representations

Section 3.1. Representations by the Lessor. The Lessor confirms its representations in Section 2.1(a)-(d) of the Original Lease as if fully set out herein as of hereof. Section 2.1 of the Original Lease is also supplemented as follows:

"(e) In order to provide financing of the Additional Project, Lessor will issue its Series 1981 A Bonds in the aggregate principal amount of \$500,000.

Interest on the Series 1981 A Bonds shall be payable on January 1, April 1, July 1 and October 1 of each year commencing October 1, 1981. The Series 1981 A Bonds shall bear interest at the rate per annum equal to 70% of the prime commercial

lending rate announced by Lincoln National Bank and Trust Company of Fort Wayne at its principal office in Fort Wayne, which rate shall be determined on the first day of each quarter, commencing October 1, 1981, and shall remain in effect for interest accruing during such quarter; provided that interest due on October 1, 1981, shall be determined by reference to such rate in effect on September 1, 1981. Interest shall be calculated on the basis of a year of 360 days consisting of twelve 30-day months. The Series 1981 A Bonds shall be issued as one fully registered Series 1981 A Bond in the amount of \$500,000. The Series 1981 A Bond shall be payable as to principal on January 1, April 1, July 1 and October 1 of each year, commencing January 1, 1982, in 40 equal principal installments, each in the amount of \$12,500.

(f) The Lessor has acquired good and marketable title to the Leased Land upon which the Additional Project is to be located, subject to Permitted Encumbrances and proposes to cause to be acquired and installed the additional Leased Equipment to be financed with the proceeds of the Series 1981 A Bonds in the Building or in the addition thereto to be financed with the proceeds of the Series 1981 A Bonds or on the Leased Land and proposes to lease the Additional Project to the Lessee, and to sell the Project to the Lessee upon the Lessee's exercise of its option to purchase the Project, including the Additional Project, or at the expiration or sooner termination of the Lease Term, all for the purpose of promoting economic development by inducing the Lessee to locate and operate the Additional Project in or near the Lessor's boundaries."

Section 3.2. Representations by Lessee. Lessee confirms its representation in Section 2.2 (a)-(o) of the Original Lease as if fully set out herein as of the date hereof. Section 2.2 of the Original Lease is also supplemented as follows:

"(p) The Lessee has power to enter into the First Amendment to Lease, and by proper corporate action has been duly authorized to execute and deliver the First Amendment to Lease.

(q) Neither the execution and delivery of the First Amendment to Lease, the consummation of the transactions contemplated by the First Amendment to Lease, nor the fulfillment of or compliance with the terms and conditions of the First Amendment to Lease, conflict with or result in a breach of any of the terms, conditions or provisions of any corporate restriction or any agreement or instrument to which the Lessee is now a party or by which it is bound, or constitute a default under any of the foregoing, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Lessee under the terms of any instrument or agreement.



(r) The leasing by the Lessor of the Additional Project to the Lessee will encourage the Lessee to expand its facilities in or near the Lessor's boundaries.

(s) The Lessee intends to operate or cause the Project, including the Additional Project, to be operated to the expiration or sooner termination of the Lease Term."

#### ARTICLE IV

##### Demising Clauses and Title Insurance

Section 4.1. Demise of the Additional Project. Section 3.1 of the Original Lease is supplemented as follows: "The Lessor demises and leases to the Lessee, and the Lessee leases from the Lessor the Additional Project at the rental set forth in Section 6.2 of the First Amendment to Lease, and in accordance with the Lease, subject to Permitted Encumbrances."

Section 4.2. Title Insurance. Section 3.2 of the Original Lease is supplemented as follows: "The Lessor will promptly obtain title insurance in the form of an ALTA owner-mortgagee title policy, or an endorsement to the original title policy in the full amount of \$500,000, and will furnish a copy of such policy or endorsement to the Lessee. Any Net Proceeds payable either to the Lessor or the Lessee under such policy and/or endorsement shall, at the Lessee's option, be either (a) used to acquire and construct replacement or substitute property for that to which title has been lost and such property shall be subject to the lien of the Indenture, or (b) used to redeem Bonds under the provisions of the second paragraph of Section 301 of the Indenture."

#### ARTICLE V

##### Commencement and Completion of the Additional Project; Issuance of Series 1981 Bonds

Section 5.1. Agreement to Acquire and Construct the Additional Project. Section 4.1 of the Original Lease is supplemented as follows:

"(d) It will cause the Additional Project to be acquired and constructed in accordance with the terms and conditions of Article IV of the Original Lease."

Section 5.2. Agreement to Issue Series 1981 Bonds;  
Application of Series 1981 Bond Proceeds. Section 4.2 of the Original Lease is supplemented as follows:

"In order to provide funds for payment or reimbursement of the cost of acquisition, construction and installation for the Additional Project, the Lessor agrees that it will sell, and cause to be delivered to the purchasers thereof, Five Hundred Thousand Dollars (\$500,000) aggregate principal amount of the Series 1981 A Bonds.

Upon receipt of the proceeds of said sale, the Lessor will (a) deposit in the Bond Fund a sum equal to the accrued interest payable on the Series 1981 A Bonds from their date to the date of delivery thereof to the purchasers, and (b) deposit in the Project Fund the balance of the proceeds received from said sale."

Section 5.3. Disbursements from the Project Fund. Section 4.3(i) is amended in its entirety by substituting the following: "(i) All moneys (including moneys earned pursuant to provisions of Section 4.9 of the Original Lease) remaining in the Project Fund after acquisition and construction of the Project (including the Additional Project) and payment in full of the cost thereof, and after payment of all other items provided for in the preceding subsections (a) through (h), inclusive, of this Section, then due and payable but excluding amounts retained by the Trustee at the direction of the Authorized Lessee Representative in the Project Fund for the payment of Project (including the Additional Project) costs not then due and payable, shall be deposited in a separate special escrow account of the Bond Fund and shall be invested in accordance with provisions of Revenue Procedure 79-5 and used by the Trustee to redeem the Series 1981 A Bonds at the earliest possible redemption date or used by the Trustee, at the direction of Authorized Lessee Representative, for such other purpose as shall in the opinion of Ice Miller Donadio & Ryan, as bond counsel, not cause the interest on the Series 1981 A Bonds to become taxable."

## ARTICLE VI

### Effective Date of First Amendment to Lease; First Amendment to Lease Term; Rent

Section 6.1. Effective Date; First Amendment to Lease Term. Section 5.1 of the Original Lease is supplemented and amended by adding the following: "The First Amendment to Lease

shall become effective upon its delivery, and the leasehold estate created in the First Amendment to Lease shall then begin, and, subject to the provisions of the Original Lease (including particularly Articles X and XI thereof), shall expire on September 1, 1991, or if all of the Bonds then have not been fully paid and retired (or provisions for such payments made as provided in the Indenture), on such date as such payment or provision for payment shall have been made."

Section 6.2. Rents and Other Amounts Payable. Section 5.3 of the Original Lease is amended by changing the term "Bonds" each place it appears in the first paragraph of said Section 5.3 to "Series 1976 Bonds," and by the addition of the following paragraph: "In addition to all amounts payable by the Lessee under Section 5.3 of the Original Lease, Lessee shall pay on the first day of January 1, April 1, July 1 and October 1 thereafter, to the Trustee as additional rent for the Project, including the Additional Project, a sum equal to the principal and interest payment which may be due on said dates on the Series 1981 A Bonds, including but not limited to the fees of the Trustee for services rendered in connection with the Series 1981 A Bonds and such other fees, expenses and charges required by Section 5.3 of the Original Lease. Lessee shall certify to the Trustee at the time of each rent payment that the rent payment has been calculated in accordance with the formula as set forth in Section 2.1(e) of the Original Lease as added pursuant to Section 3.1 hereof."

## ARTICLE VII

### Special Covenants

Section 7.1. Tax Exempt Status of Bonds. Section 8.7 of the Original Lease is amended by changing the reference to "Section 103(c)(7)" to "Section 103(b)(9)."

Section 7.2. Covenants of Lessee With Respect to Capital Expenditures. The Original Lease is amended by adding a new Section 8.9 as follows:

"Section 8.9. Covenants of Lessee with Respect to Capital Expenditures. The Lessor is issuing the Series 1981 A Bonds pursuant to an election made under Section 103(b)(6)(D) of the Internal Revenue Code of 1954, as amended. In order to insure that interest on the Series 1981 A Bonds will not become subject to Federal Income Taxes as a result of a violation of the capital expenditures limitation prescribed in said Section

103(b) (6) (D), the Lessee covenants with the Lessor, the Trustee, and with each of the future holders of any Series 1981 A Bonds as follows:

(a) That all rights and privileges granted to the Lessee hereunder shall be exercised in such manner that the covenants made by this Section 8.9 shall be observed, and if any conflict between Section 8.9 and any other provision of this Lease shall arise, then in such case, Section 8.9 shall control;

(b) That there will be no occurrence of any circumstance set forth in Sections 103(b) (6) (D) and (E) of the Internal Revenue Code of 1954 which might cause interest on the Bonds to lose its tax exempt status;

(c) That on the date on which the Series 1981 A Bonds are delivered to the original purchaser or purchasers thereof and on a date within the thirty days following each anniversary of such delivery date occurring during the thirty-six month period subsequent to such delivery date, the Lessee shall cause to be filed with the Trustee a certificate of an independent accountant of national standing, stating with respect to the period beginning thirty-six months prior to such delivery date of said Series 1981 A Bonds and, in the case of the first such certificate, ending on such delivery date and, in the case of each subsequent certificate, ending within thirty days prior to the anniversary date next preceding the date of such certificate, that the principal amount of said Bonds plus the aggregate amount of capital expenditures (other than capital expenditures described in Section 103(b) (6) (F) of the Internal Revenue Code of 1954) with respect to "facilities" (as defined in Section 103(b) (6) (E) of the Internal Revenue Code of 1954 and financed otherwise than out of the proceeds of the Bonds) located in the City of Fort Wayne are not in excess of \$10,000,000, and there shall be submitted to such accountant such books and records of the Lessee pertaining to the Project as may be necessary to enable such accountant to render such certificate;

(d) That on such dates as the certificates of an independent accountant are required to be filed with the Trustee pursuant to paragraph (c) of this Section, there shall be filed with the Trustee by the Lessee a certificate of the president or the chief financial officer of the Lessee which complies with the requirements for the certificate required to be filed on such date by paragraph (c) of this Section; and

(e) That it will comply with the governing regulations from time to time applicable to Section 103 of the Internal Revenue Code of 1954 to the extent that compliance therewith is necessary in order that interest on the Bonds shall remain exempt."

## ARTICLE VIII

### Events of Default

Section 8.1. Events of Default Defined. Section 10.1(c) is amended by the substitution of the following:

"(c) The dissolution or liquidation of the Lessee, or the filing by the Lessee of a voluntary petition in bankruptcy, or failure by the Lessee promptly to forestall or remove any execution, garnishment or attachment of such consequence as will impair its ability to continue its business or fulfill its obligations hereunder; or the entry of an order for relief under Title 11 of the United States Code, as the same may from time to time be hereinafter amended, against the Lessee; or the filing of a petition or answer proposing the entry of an order for relief against the Lessee under Title 11 of the United States Code, as the same may from time to time be hereinafter amended, or the reorganization, arrangement or debt readjustment of the Lessee under any present or future federal bankruptcy act or any similar federal or state law in any court and the failure of said petition or answer to be discharged or denied within ninety days after the filing thereof; or the appointment of a custodian (including without limitation a receiver, trustee or liquidator of the Lessee) of all or a substantial part of the property of the Lessee, and the failure of such a custodian to be discharged within ninety days after such appointment; or the taking by such a custodian of possession of the Lessee or a substantial part of its property, and the failure of such taking to be discharged within ninety days after such taking; or the Lessee's consent to or acquiescence in such appointment or taking; or assignment by the Lessee for the benefit of its creditors; or the entry by the Lessee into an agreement of composition with its creditors. The term "dissolution or liquidation of the Lessee," as used in this subsection, shall not be construed to include the cessation of the corporate existence of the Lessee resulting either from a merger or consolidation of the Lessee into or with another corporation or a dissolution or liquidation of the Lessee following a transfer of all or substantially all of its assets as an entirety, under the conditions permitting such actions required in Section 8.3 of the Original Lease."

ARTICLE IX

Section 9.1. Notices. Section 12.1 of the Original Lease is amended by substituting the following as the address of the Lessee for notice purposes:

"If to the Lessee: \_\_\_\_\_."

ARTICLE X

Relative Position of this First Amendment to and Supplement of Lease Agreement and the Original Lease

All of the provisions of the Lease, to the extent not inconsistent herewith, are hereby incorporated in this First Amendment to Lease and made a part of this First Amendment to Lease. Notwithstanding any provision of this First Amendment to Lease, all of the provisions of the Original Lease shall remain enforceable by the Lessee, the Issuer and the Trustee and the holders of any bond issued thereunder as provided by its terms. The amendments to, and supplements of, the Original Lease contained in this First Amendment to Lease are designed to equally and ratably secure the Series 1981 A Bonds issued hereunder with the Series 1976 Bonds. Any amendment changing Series 1976 to Series 1981 A in the Lease shall not have the effect of amending the Original Lease as regards Series 1976 Bonds but shall merely add provisions with regard to the Series 1981 A Bonds. Any reference to the Series 1976 Bonds in the Original Lease shall be construed to contain identical provisions as regards the Series 1981 A Bonds to the extent not inconsistent herewith.

IN WITNESS WHEREOF, the Lessor and Lessee have caused this First Amendment to Lease to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

CITY OF FORT WAYNE, INDIANA

By \_\_\_\_\_  
Winfield C. Moses, Jr., Mayor

(Seal)

Attest:

\_\_\_\_\_  
Charles W. Westerman, Clerk

MULLINIX PACKAGES, INC.

By \_\_\_\_\_,  
\_\_\_\_\_, President

(SEAL)

Attest:

\_\_\_\_\_  
\_\_\_\_\_, Secretary

The interest of the City of Fort Wayne, Indiana, in this First Amendment to Lease has been assigned to Lincoln National Bank and Trust Company of Fort Wayne, Indiana, as Trustee under the Mortgage and Indenture of Trust, dated as of October 1, 1976, between the City of Fort Wayne, Indiana, and Lincoln National Bank and Trust Company of Fort Wayne, as Trustee, as supplemented and amended by the First Amendment to Indenture, dated as of September 1, 1981.



STATE OF INDIANA )  
 ) SS:  
COUNTY OF ALLEN )

Before me, \_\_\_\_\_, a Notary Public in and for the State and County aforesaid, personally appeared Winfield C. Moses, Jr. and Charles W. Westerman, with both of whom I am personally acquainted, and who, upon their oaths, acknowledged themselves to be the Mayor and Clerk, respectively, of the City of Fort Wayne, Indiana, one of the within named bargainers, and that they, as such Mayor and Clerk being authorized so to do, executed the foregoing instrument for the purposes contained therein by subscribing thereto the name of said City and attesting the official seal of said City by themselves as such Mayor and Clerk, respectively.

WITNESS my hand and notarial seal of office at the City of Fort Wayne, Indiana, this \_\_\_\_\_ day of \_\_\_\_\_, 1981.

\_\_\_\_\_  
(Written Signature)

\_\_\_\_\_  
(Printed Signature)

Notary Public

(Seal)

My commission expires:

My county of residence is:

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) SS:

Before me, \_\_\_\_\_, a Notary Public in and for the County and State aforesaid, personally appeared \_\_\_\_\_ and \_\_\_\_\_, with both of whom I am personally acquainted, and who, upon their oaths, acknowledged themselves to be the \_\_\_\_\_ and \_\_\_\_\_, respectively, of Mullinix Packages, Inc., one of the within named bargainers, and that they, as such \_\_\_\_\_ and \_\_\_\_\_ being authorized so to do, executed the foregoing instrument for the purposes contained therein by subscribing thereto the name of said Company and attesting the official seal of said Company by themselves as such \_\_\_\_\_ and \_\_\_\_\_, respectively.

WITNESS my hand and notarial seal of office at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 1981.

\_\_\_\_\_  
(Written Signature)

\_\_\_\_\_  
(Printed Signature)

Notary Public

(Seal)

My commission expires:

My county of residence is:

\_\_\_\_\_  
\_\_\_\_\_  
This instrument prepared by Philip C. Genetos, Ice Miller Donadio & Ryan, 111 Monument Circle, Indianapolis, Indiana 46204.

EXHIBIT A

ADDITIONAL PROJECT

LEASED LAND

Part of 30 Acres off the East side of the Northwest Quarter of the Northwest Quarter of Section 21, Township 30 North, Range 12 East, Allen County, Indiana, in particular described as follows to-wit:

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To arrive at the point of beginning, commence on the North line of said Quarter Section at its intersection by the West line of Mark Drive as dedicated in Instrument recorded in Deed Record 590, pages 420-~~221~~, thence South on the West line of said Mark Drive, a distance of 250.0 feet to the aforesaid point of beginning; thence continuing South on the West line of said Mark Drive, a distance of 157.3 feet; thence West on a line parallel to the North line of said Quarter Section, by a deflection right of 91 degrees 33 minutes, a distance of 430.0 feet; thence North by a deflection right of 88 degrees 27 minutes, a distance of 157.3 feet; thence East on a line parallel to the North line of said Quarter Section, a distance of 430.0 feet to the point of beginning; containing 1.55 Acres.

6

EXHIBIT B

ADDITIONAL PROJECT

LEASED EQUIPMENT

EXHIBIT C

ADDITIONAL PROJECT

BUILDING